

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 02 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ISRAEL ALBERTO MEZA-GARCIA,

Defendant - Appellant.

No. 04-50413

D.C. No. CR-03-03306-MJL

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, District Judge, Presiding

Argued and Submitted October 19, 2005
Pasadena, California

Before: PREGERSON, CLIFTON, and BYBEE, Circuit Judges.

Israel Alberto Meza-Garcia appeals his 120 month mandatory minimum sentence for importing cocaine under 21 U.S.C. §§ 952, 960. We have jurisdiction under 28 U.S.C. § 1291 and we affirm.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

We believe the district court did not clearly err when it denied Meza-Garcia a safety valve reduction. Because Meza-Garcia refused to be candid about where he lived and his relationship to those who had supplied him with the drugs, the court correctly found that Meza-Garcia had not told “all [he] can tell.” *United States v. Shrestha*, 86 F.3d 935, 939 (9th Cir. 1996). Moreover, the court did not abuse its discretion when it denied Meza-Garcia an additional opportunity to testify. The sentencing court need only give the defendant a “‘reasonable opportunity’ to present information to the court,” *United States v. Real-Hernandez*, 90 F.3d 356, 362 (9th Cir. 1996) (citations omitted). Two safety valve debriefings and three thorough evidentiary hearings is more than enough to meet that standard.

Meza-Garcia also argued that he should have been sentenced under the Sentencing Guidelines rather than under the mandatory minimum. We reject Meza-Garcia’s arguments, following the general rule that where criminal liability is greater under the statutory minimum than under the Sentencing Guidelines, the statutory minimum sentence controls. *United States v. Van Doren*, 182 F.3d 1077, 1083 (9th Cir. 1999). Because Meza-Garcia’s statutory minimum sentence was higher than the Guidelines sentence, the district court had no authority to go below the mandatory minimum.

AFFIRMED.